

# EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

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CHRISTOPHER HOWE,	:
Individually, and on	:
Behalf of all others	:
Similarly situated,	:
Plaintiff	:
-vs-	: CASE NO. 1:19-cv-01374
SPEEDWAY LLC AND	:
MARATHON PETROLEUM	:
COMPANY,	:
Defendants	:

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Deposition of KELLI JONES, a witness  
herein, taken by the Plaintiff as upon  
cross-examination and pursuant to the Federal Rules  
of Civil Procedure as to the time and place and  
stipulations hereinafter set forth, at the offices  
of Britton & Associates, 201 Riverside Drive, Suite  
2B, Dayton, Ohio at 10:45 a.m., on October 1, 2019,  
before Jamie S. Hurley, Court Reporter and Notary  
Public within and for the State of Ohio.

\* \* \* \* \*

1 WHEREUPON:

2 KELLI JONES,  
3 of lawful age, a witness herein, being first duly  
4 sworn as hereinafter certified, testified as  
5 follows:

6 CROSS-EXAMINATION

7 BY MR. STEPHAN:

8 Q. Good morning.

9 A. Good morning.

10 Q. Can you please state and spell your  
11 name for the record?

12 A. Kelli Jones, K-E-L-L-I, J-O-N-E-S.

13 Q. Good morning, Kelli. My name is Ryan  
14 Stephan. I'm one of the lawyers representing the  
15 plaintiffs in the Howe versus Speedway case. We're  
16 here today to take your rule 30(b)(6) deposition in  
17 that case. Have you ever been deposed before?

18 A. No.

19 Q. Okay. I'm going to go over a couple of  
20 ground rules to try to follow just so that things  
21 go smoothly, and we have a clear record, and  
22 hopefully we get you out of here before too long.  
23 Sound good?

24 A. Sounds good.

25 Q. First, is do your best to give clear

1 BY MR. STEPHAN:

2 Q. No. I just want to know when the next  
3 conversation, not content of, just when the next --

4 MR. WOLFE: Thank you, Ryan.

5 THE WITNESS: Honestly, I don't  
6 know specifically what the date was, but it would  
7 have been sometime before November.

8 BY MR. STEPHAN:

9 Q. Why do you say before November?

10 A. Because we implemented the consent form  
11 in November.

12 Q. Do you know approximately how long  
13 after that initial meeting that we discussed until  
14 Holly created that consent form?

15 A. A month or so.

16 Q. Okay. Do you know if anyone else  
17 played a role in preparing the consent form?

18 A. I mean, I don't know for sure, but I  
19 would guess that Diana and her were creating it.

20 Q. Can you think of anyone else that would  
21 have helped prepare this consent form?

22 A. IT may have had a role in that.

23 Q. Would that have been either Chris  
24 Salley or Ryan?

25 A. Probably.

1 A. That was TimeLink.

2 Q. Okay. There's actually a company  
3 called TimeLink, though, and TimeLink Software,  
4 correct?

5 A. Yes, at the time.

6 Q. Do you know when Speedway first used  
7 the TimeLink software?

8 A. I believe that that was implemented  
9 between 2003, 2004.

10 Q. Does it still use it today?

11 A. No.

12 Q. When did it stop?

13 A. Are you speaking specifically in the  
14 State of Illinois?

15 Q. Yes.

16 A. 2018.

17 Q. Do you remember when in 2018?

18 A. No, I don't because that was a phased  
19 roll out in different divisions, went live at  
20 different times throughout the year.

21 Q. Okay. So for the State of Illinois  
22 would you agree that that software used for  
23 timekeeping devices between 2003 or 2004 and then  
24 2018 was TimeLink?

25 A. Yes.

1 Q. Okay. And TimeLink was previously  
2 owned by the company TimeLink. At some point it  
3 implements in 2017, it was purchased by Kronos; is  
4 that right?

5 A. I don't know if it was 2017 it was  
6 purchased by Kronos, but it was before we rolled  
7 out the forms.

8 Q. Okay. Do you have any idea why Kronos  
9 purchased TimeLink?

10 A. I do not.

11 Q. Okay. And the devices themselves, the  
12 hardware that we discussed about, they were  
13 originally provided to Speedway by Kronos, correct?

14 A. Yes.

15 Q. Was there a name for those devices?

16 A. I mean, they have a model name. I  
17 don't know what that model name is, but we just  
18 called them the time clocks.

19 Q. Do you know if they were ever called  
20 Touch ID?

21 A. I don't know that for sure.

22 Q. Okay. Would you agree that employees  
23 working at Speedway stores in Illinois back in 2017  
24 at the time of this rollout, consent form rollout  
25 to clock in and out of these with their

1 Q. Have we exhausted that basis?

2 A. Yes.

3 Q. Okay. You also mentioned that another  
4 basis of documentation, I think, from Kronos; is  
5 that right?

6 A. Yes.

7 Q. What documentation are you referring  
8 to?

9 A. They have information, published  
10 material about their specific software and hardware  
11 devices that they use.

12 Q. Can you think of the name of those  
13 publications?

14 A. No.

15 Q. Do you remember when you first saw  
16 those documents?

17 A. No.

18 Q. Okay. Do you have any other basis for  
19 your testimony that the timekeeping devices used by  
20 Speedway don't take actual pictures of user's  
21 fingerprints?

22 A. No.

23 Q. Okay. You would agree, though, that at  
24 least up until any changes that Kronos or, I'm  
25 sorry, that Speedway made in 2018 that employees

1 would clock in and out by putting their finger on  
2 the timekeeping device, correct?

3 A. Yes.

4 Q. And you would agree that before that  
5 they could clock in and out they would have to be  
6 enrolled in that timekeeping device, correct?

7 A. Yes.

8 Q. And to do so Speedway would collect  
9 those user's fingerprints, correct?

10 A. I would say that Speedway collected a  
11 code that was assigned to a scan of match points of  
12 an employee's finger.

13 Q. Okay. Let's break this down. Have you  
14 ever personally been involved in an enrollment of  
15 an employee in Illinois into the timekeeping  
16 device?

17 A. No.

18 Q. Do you have any personal knowledge  
19 about how that occurs?

20 A. Yes.

21 Q. What is your personal knowledge?

22 A. When an employee begins employment at  
23 the store, the manager takes them to the clock.  
24 The employee places their finger on the scanner.  
25 That scanner immediately creates an alphanumeric



1 code was based on the employee's finger scan?

2 A. Yes.

3 Q. So before a code can be created, the  
4 employee had to scan his or her finger on the  
5 timekeeping device, correct?

6 A. Yes.

7 Q. And that code would then be used to  
8 identify the users when they clock in and out on  
9 Speedway's timekeeping device using their finger,  
10 correct?

11 A. Yes.

12 Q. By the way, how long have the Kronos  
13 devices been used by Speedway stores in Illinois?

14 MR. WOLFE: Objection. Asked and  
15 answered. You can answer it.

16 THE WITNESS: The clocks have been  
17 used since the original rollout in 2003, 2004.

18 BY MR. STEPHAN:

19 Q. Have they always been Kronos time  
20 clocks?

21 MR. WOLFE: Objection, asked and  
22 answered. You can answer it again.

23 THE WITNESS: Before Kronos bought  
24 TimeLink, no, they were not. They were not Kronos.

25 BY MR. STEPHAN:

1 BY MR. STEPHAN:

2 Q. Okay. And that was true up until at  
3 least November of 2017, correct?

4 A. Yes.

5 Q. Okay. And during that time from 2012  
6 until November of 2017 did Speedway get those  
7 employees' written consent before it enrolled them  
8 in the biometric timekeeping device?

9 MR. WOLFE: Object to the extent  
10 it seeks a legal conclusion. You can answer it.

11 THE WITNESS: There were numerous  
12 policies that employees signed off on regarding our  
13 technology, but specifically for the timekeeping  
14 device, no.

15 BY MR. STEPHAN:

16 Q. Okay. And prior to November of 2017  
17 did Speedway inform any of its store employees of  
18 their rights under BIPA?

19 MR. WOLFE: Same objection. You  
20 can answer it.

21 THE WITNESS: I am not sure.

22 BY MR. STEPHAN:

23 Q. As you sit here today are you aware of  
24 under, informing store employees of their rights  
25 under BIPA before November of 2017?

1 A. From a written perspective, no. But  
2 I'm not sure verbally.

3 Q. Prior to November of 2017 are you aware  
4 of Speedway having a written policy that was made  
5 available to the public establishing a retention  
6 schedule and guidelines for permanently destroying  
7 biometric identifiers, biometric information?

8 A. Speedway has a retention policy  
9 regarding all timekeeping information.

10 Q. Okay. Do they have one regarding  
11 people's fingerprints and how those fingerprints  
12 were destroyed prior to November of 2017?

13 A. Not specifically, but it was also not  
14 excluded.

15 Q. I'm sorry, it was also not?

16 A. Excluded.

17 Q. What policy are you referring to?

18 A. Our records retention policy.

19 Q. Is there a name for it?

20 A. Timekeeping.

21 Q. Where is that policy kept?

22 A. It's in our operations manual available  
23 for anyone to see. It's also on our corporate  
24 share drive.

25 Q. Okay. You say in the operation's

1 prepare for today's deposition?

2 MR. WOLFE: You can answer that  
3 generally.

4 THE WITNESS: Policies.

5 BY MR. STEPHAN:

6 Q. Anything else?

7 A. Declarations.

8 Q. Anything else?

9 A. No.

10 Q. What policies did you review?

11 A. The code of conduct, the code of  
12 business conduct, sorry, the personal and  
13 employment information policy, the retention  
14 policy, the information release policy and the  
15 information system usage policy.

16 Q. Okay. Did you look at any other  
17 policies?

18 A. The BIPA policy that was created in  
19 2017.

20 Q. Okay. Anything else?

21 A. No.

22 Q. Okay. You also mentioned you looked at  
23 declarations?

24 A. Yes.

25 Q. Whose declarations?

1           A. Honestly I'm not for sure, maybe at the  
2 end of 2017.

3           Q. Are you aware that Mr. Howe filed this  
4 lawsuit on February 1st, 2017?

5           A. No, I'm not aware.

6           Q. You would agree that would be two  
7 months before this consent form was rolled out?

8           A. Yes.

9           Q. Prior to rolling this consent form out  
10 in November of 2017, did you have any knowledge  
11 that a lawsuit was filed against Speedway for  
12 violations of BIPA?

13          A. No.

14          Q. Do you remember how you first learned  
15 about this lawsuit that brought you here today?

16          A. I don't remember the specifics of the  
17 conversation, but it was brought to my attention by  
18 our attorney.

19          Q. That would be Holly?

20          A. That would be Holly, yes.

21          Q. Was that face-to-face conversation?

22          A. I don't recall.

23          Q. In that first sentence it talks about  
24 third party device; do you see that that, that  
25 first bullet point?

1 recall his name.

2 Q. When was the last time you communicated  
3 with Kostas?

4 A. That would have probably been that  
5 conversation that we had when he was onsite at  
6 Speedway which was several years ago.

7 Q. When was the last time you communicated  
8 with the --

9 A. That would have been after the  
10 evaluation of time systems for the future, so 2017.

11 Q. And who, was the rep a man or a woman?

12 A. It was a man.

13 Q. You don't remember his name?

14 A. Honestly, I really don't, I'm sorry.

15 Q. Would you agree that if we really want  
16 to find out whether or not the original fingerprint  
17 was to be recreated we should ask Kronos?

18 A. Yeah.

19 Q. Are you aware of any efforts by anyone  
20 at Speedway to contest that statement?

21 A. No, I'm not aware of that.

22 Q. Okay. And then do you see the next  
23 section it talks about effective immediately?

24 A. Yes.

25 Q. So after November 1st, 2017 would you

1 agree it was Speedway's policy to require all  
2 employees including store leadership hired on or  
3 after November 2nd, 2007 to require them to  
4 acknowledge and sign information release form  
5 during the onboarding process?

6 A. Yes.

7 Q. Current employees who are already  
8 enrolled who previously enrolled before November  
9 1st, 2017 were also required to sign off on this  
10 consent form, right?

11 A. It does not specifically say in this  
12 document they were required to sign it, but that,  
13 they would need to acknowledge and sign to continue  
14 to use it.

15 Q. Right. It doesn't use the word  
16 require. It says they need to acknowledge and sign  
17 the release, correct?

18 A. Correct.

19 Q. It then goes on at the bottom it says,  
20 if you have any questions, please dial the  
21 Operations One Number; do you see that?

22 A. Yes.

23 Q. What is Operations One?

24 A. The Operations One Number is one number  
25 that all employees have access to for different

1 at least as of November 2017 with BIPA?

2 A. I mean, it was my understanding that we  
3 were already in compliance. It was just a tool to  
4 strengthen it.

5 Q. Well, what was done to ensure  
6 compliance before November of 2017?

7 A. We keep our data secured. We have  
8 numerous policies addressing the privacy of  
9 employee data and how we do not transmit that to  
10 third party vendors, employees consent to  
11 understanding that we treat our employee data and  
12 customer data very, very securely.

13 Q. Okay. Are you aware of anything else  
14 that was done by anyone at Speedway to ensure  
15 compliance with BIPA prior to November of 2017?

16 A. Not specific to BIPA.

17 Q. And when you say that data was secured,  
18 what data are you referring to?

19 A. Any kind of personal information data.

20 Q. Okay. That would include biometric  
21 data, correct?

22 A. That would include the code that was  
23 assigned to the employee.

24 Q. Okay. That would include the data that  
25 was collected by Speedway's time clocks, correct?



1 A. Yes.

2 Q. You also mentioned that there were  
3 numerous policies that showed compliance, correct?

4 A. Yes.

5 Q. What policies are those?

6 A. That would be like our code of conduct,  
7 code of business conduct policy, our information  
8 release policy, our personal and employment  
9 information policy, retention policies, those types  
10 of documents.

11 Q. Did any of those policies you just  
12 mentioned reference BIPA?

13 A. Not specific.

14 Q. Did any of those reference biometric  
15 information systems?

16 A. Not specifically.

17 Q. Did any of those reference fingerprints  
18 collected for purposes of timekeeping?

19 A. Not specifically.

20 Q. Okay. The last thing I think you  
21 mentioned was employee's consent, give consent; is  
22 that right?

23 A. Employee consent to understanding  
24 Speedway's policy on information, yes.

25 Q. So you're talking about general

1 consent, correct?

2 A. For the code of business conduct.

3 Q. Okay. Did they have to sign off on the  
4 code of business conduct?

5 A. Yes.

6 Q. Okay. And that code of business  
7 conduct, correct me if I'm wrong, doesn't say  
8 anything about BIPA, correct?

9 A. Not specifically.

10 Q. It doesn't say anything about  
11 biometric, does it?

12 A. Not specifically.

13 Q. So the only consent that says anything  
14 about fingerprints or biometric information, BIPA  
15 is the one that was rolled out in November of 2017,  
16 correct?

17 A. Yes.

18 Q. Do you know who Hannah Rice is?

19 A. Hannah Rice, I have heard the name. I  
20 believe she was a district manager trainee a long  
21 time ago.

22 Q. Do you know if she's a communication  
23 supervisor?

24 A. She, you know now that you mention it,  
25 she was a communication supervisor for a very, very